

SENATE BILL 70

D4

2lr0820

By: **Senator Kelley**

Introduced and read first time: January 16, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Permanency Planning and Guardianship Review Hearings –**
3 **Court Procedures**

4 FOR the purpose of establishing certain methods by which the juvenile court, in
5 certain permanency planning and guardianship review hearings, may satisfy
6 the requirement that the court consult on the record with the child under
7 certain circumstances; specifying the purpose of the consultation; and generally
8 relating to permanency planning and guardianship review hearings.

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–823(b), (c), and (h)(1)
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2011 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 3–823(k)
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2011 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Family Law
21 Section 5–326(a)(1) and (2)
22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume and 2011 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Family Law
4 Section 5–326(c)
5 Annotated Code of Maryland
6 (2006 Replacement Volume and 2011 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article – Courts and Judicial Proceedings**

10 3–823.

11 (b) (1) The court shall hold a permanency planning hearing to determine
12 the permanency plan for a child:

13 (i) No later than 11 months after a child committed under
14 § 3–819 of this subtitle or continued in a voluntary placement under § 3–819.1(b) of
15 this subtitle enters an out-of-home placement; or

16 (ii) Within 30 days after the court finds that reasonable efforts
17 to reunify a child with the child’s parent or guardian are not required based on a
18 finding that a circumstance enumerated in § 3–812 of this subtitle has occurred.

19 (2) For purposes of this section, a child shall be considered to have
20 entered an out-of-home placement 30 days after the child is placed into an
21 out-of-home placement.

22 (3) If all parties agree, a permanency planning hearing may be held on
23 the same day as the reasonable efforts hearing.

24 (c) (1) On the written request of a party or on its own motion, the court
25 may schedule a hearing at any earlier time to determine a permanency plan or to
26 review the implementation of a permanency plan for any child committed under
27 § 3–819 of this subtitle.

28 (2) A written request for review shall state the reason for the request
29 and each issue to be raised.

30 (h) (1) (i) Except as provided in subparagraphs (ii) and (iii) of this
31 paragraph, the court shall conduct a hearing to review the permanency plan at least
32 every 6 months until commitment is rescinded or a voluntary placement is terminated.

1 (ii) The court shall conduct a review hearing every 12 months
2 after the court determines that the child shall be continued in out-of-home placement
3 with a specific caregiver who agrees to care for the child on a permanent basis.

4 (iii) 1. Unless the court finds good cause, a case shall be
5 terminated after the court grants custody and guardianship of the child to a relative or
6 other individual.

7 2. If the court finds good cause not to terminate a case,
8 the court shall conduct a review hearing every 12 months until the case is terminated.

9 3. The court may not conclude a review hearing under
10 subsubparagraph 2 of this subparagraph unless the court has seen the child in person.

11 (k) (1) At least every 12 months at a hearing under this section, the court
12 shall consult on the record with the child in an age-appropriate manner TO OBTAIN
13 THE CHILD'S VIEWS ON PERMANENCY.

14 (2) (I) IF, AFTER A HEARING OR WITH THE AGREEMENT OF ALL
15 PARTIES, THE COURT DETERMINES THAT THE CHILD IS MEDICALLY FRAGILE
16 AND THAT IT IS DETRIMENTAL TO THE CHILD'S PHYSICAL OR MENTAL HEALTH
17 TO BE TRANSPORTED TO THE COURTHOUSE, THE COURT MAY, SUBJECT TO
18 SUBPARAGRAPH (II) OF THIS PARAGRAPH:

19 1. VISIT THE CHILD AT THE CHILD'S PLACEMENT
20 AND USE APPROPRIATE TECHNOLOGY TO DOCUMENT THE CONSULTATION FOR
21 THE RECORD; OR

22 2. ~~SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH~~
23 ~~(II) OF THIS PARAGRAPH, USE~~ USE VIDEO CONFERENCING TO CONSULT WITH
24 THE CHILD ON THE RECORD DURING THE HEARING.

25 (II) IF THE COURT VISITS THE CHILD AT THE CHILD'S
26 PLACEMENT UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH OR USES VIDEO
27 CONFERENCING UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE COURT
28 SHALL GIVE EACH PARTY NOTICE AND AN OPPORTUNITY TO ATTEND THE VISIT
29 OR THE VIDEO CONFERENCING, UNLESS THE COURT DETERMINES THAT IT IS
30 NOT IN THE BEST INTEREST OF THE CHILD FOR A PARTY TO ATTEND THE VISIT
31 OR THE VIDEO CONFERENCING.

32 (3) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS
33 SUBSECTION, IF THE CHILD'S PLACEMENT IS OUTSIDE THE STATE AND, AFTER A
34 HEARING OR WITH THE AGREEMENT OF ALL PARTIES, THE COURT DETERMINES
35 THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO BE TRANSPORTED TO

1 THE COURT, THE COURT MAY USE VIDEO CONFERENCING TO CONSULT WITH
2 THE CHILD ON THE RECORD DURING THE HEARING.

3 **Article – Family Law**

4 5–326.

5 (a) (1) A juvenile court shall hold:

6 (i) an initial guardianship review hearing as scheduled under §
7 5–324(b)(1)(vi) of this subtitle to establish a permanency plan for the child; and

8 (ii) at least once each year after the initial guardianship review
9 hearing until the juvenile court’s jurisdiction terminates, a guardianship review
10 hearing.

11 (2) At each guardianship review hearing, a juvenile court shall
12 determine whether:

13 (i) the child’s current circumstances and placement are in the
14 child’s best interests;

15 (ii) the permanency plan that is in effect is in the child’s best
16 interests; and

17 (iii) reasonable efforts have been made to finalize the
18 permanency plan that is in effect.

19 (c) (1) At least every 12 months at a hearing under this section, the court
20 shall consult on the record with the child in an age-appropriate manner **TO OBTAIN**
21 **THE CHILD’S VIEWS ON PERMANENCY.**

22 (2) (I) **IF, AFTER A HEARING OR WITH THE AGREEMENT OF ALL**
23 **PARTIES, THE COURT DETERMINES THAT THE CHILD IS MEDICALLY FRAGILE**
24 **AND THAT IT IS DETRIMENTAL TO THE CHILD’S PHYSICAL OR MENTAL HEALTH**
25 **TO BE TRANSPORTED TO THE COURTHOUSE, THE COURT MAY, SUBJECT TO**
26 **SUBPARAGRAPH (II) OF THIS PARAGRAPH:**

27 1. VISIT THE CHILD AT THE CHILD’S PLACEMENT
28 AND USE APPROPRIATE TECHNOLOGY TO DOCUMENT THE CONSULTATION FOR
29 THE RECORD; OR

30 2. ~~SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH~~
31 ~~(II) OF THIS PARAGRAPH,~~ USE VIDEO CONFERENCING TO CONSULT WITH THE
32 CHILD ON THE RECORD DURING THE HEARING.

1 **(II) IF THE COURT VISITS THE CHILD AT THE CHILD’S**
 2 **PLACEMENT UNDER SUBPARAGRAPH (I)1 OF THIS PARAGRAPH OR USES VIDEO**
 3 **CONFERENCING UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE COURT**
 4 **SHALL GIVE EACH PARTY NOTICE AND AN OPPORTUNITY TO ATTEND THE VISIT**
 5 **OR THE VIDEO CONFERENCING, UNLESS THE COURT DETERMINES THAT IT IS**
 6 **NOT IN THE BEST INTEREST OF THE CHILD FOR A PARTY TO ATTEND THE VISIT**
 7 **OR THE VIDEO CONFERENCING.**

8 **(3) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2)(II) OF THIS**
 9 **SUBSECTION, IF THE CHILD’S PLACEMENT IS OUTSIDE THE STATE AND, AFTER A**
 10 **HEARING OR WITH THE AGREEMENT OF ALL PARTIES, THE COURT DETERMINES**
 11 **THAT IT IS NOT IN THE BEST INTEREST OF THE CHILD TO BE TRANSPORTED TO**
 12 **THE COURT, THE COURT MAY USE VIDEO CONFERENCING TO CONSULT WITH**
 13 **THE CHILD ON THE RECORD DURING THE HEARING.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 15 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.